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I N D E X

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|-------------------|-------------|-------------|--------------------|--------------------|-----------------------|
| <u>Witnesses:</u> | <u>Dir.</u> | <u>Crx.</u> | Re- <u>dir.</u> | Re- <u>crx.</u> | By <u>Examiner</u> |
|-------------------|-------------|-------------|--------------------|--------------------|-----------------------|

NONE

E X H I B I T S

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| <u>Number</u> | <u>For Identification</u> | <u>In Evidence</u> |
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NONE

1 JUDGE HAYNES: Pursuant to the direction of
2 the Illinois Commerce Commission, I now call
3 Docket 05-0355. This is the complaint of Girish N.
4 Sahay against Commonwealth Edison.

5 May I have your name and address for
6 the record, please, beginning with the complainant's
7 attorney.

8 MR. KOLAR: Kurt Kolar for petitioner, Girish
9 Sahay, M & G Enterprises.

10 JUDGE HAYNES: Kurt Kolar, can you spell that
11 for the court reporter?

12 MR. KOLAR: Last name is K-o-l-a-r.

13 JUDGE HAYNES: And your address?

14 MR. KOLAR: 123 West Madison, Suite 1800,
15 Chicago, Illinois 60602.

16 MR. GOLDSTEIN: On behalf of Commonwealth Edison
17 Company, Mark L. Goldstein, 108 Wilmot Road, Suite
18 330, Deerfield, Illinois 60015, my telephone number
19 is 847-580-5480. I have with me today Mr. John
20 Parise of Commonwealth Edison Company, and that's
21 P-a-r-i-s-e.

22 JUDGE HAYNES: Okay. This is the second time

1 that this case has been up. And the first time we
2 did not do anything because we were waiting for the
3 complainant's attorney. So, I believe, at this
4 status we need to set some dates for discovery and
5 the evidentiary hearing.

6 MR. KOLAR: Okay.

7 JUDGE HAYNES: Is there something else you would
8 like to discuss at this hearing?

9 MR. KOLAR: By no means, no. That's fine with
10 me.

11 MR. GOLDSTEIN: I just have one point to raise
12 with the Judge and Mr. Sahay and his Counsel.

13 As I understand it Mr. Sahay on
14 behalf of M & G Enterprises has not made any
15 payments with respect to electric service since
16 April of 2005. And it seems to me that's well
17 beyond the scope of the complaint that he has filed
18 in this case. And if he does not begin to make
19 payments on the undisputed bills, he is subject to
20 shutoff.

21 MR. SAHAY: Can I answer that?

22 MR. GOLDSTEIN: You can say anything you want.

1 MR. SAHAY: I did make a payment -- well, I am
2 fighting this case since June of 2004. And I did
3 make a payment of \$6,000 on August 12th, 2004. And,
4 again, I made a payment of \$10,000 on April 24th.
5 And after making the payment on April 24th, I did
6 the math and calculations, which a copy I sent to
7 the Chief Clerk of Illinois Commerce Commission that
8 I have overpaid. According to my calculations, I
9 have paid more than I'm supposed to pay.

10 And that's why, you know, I'm waiting
11 the decision. Then, whatever I overpaid will be
12 applied to my May and June bills. If I'm not
13 overpaid, you know, then I should know what I am
14 supposed to pay.

15 I did pay \$10,000 on April 24th.

16 MR. GOLDSTEIN: We would just remind Mr. Sahay
17 that his average monthly bills are, approximately,
18 \$1500 a month and he should be making payments for
19 May, June, July and August, so forth.

20 MR. SAHAY: Again, my billing is not \$1500 a
21 month. My payment is in the vicinity of about 7 to
22 \$800. And during the winter months it will be still

1 lower.

2 But this is another issue that I would
3 like to discuss and I have complete evidence to show
4 that the metering that was provided to measure this
5 thing is defective. It is not recording right. And
6 I had requested Commonwealth (inaudible) we have to
7 factor --

8 JUDGE HAYNES: I'm sorry.

9 MR. SAHAY: We have a meter. We have to have
10 factor of 120 (inaudible). Anyway, I'm not
11 discussing right now.

12 But, what I'm discussing, based on the
13 reading on which I am billed, you know, I made the
14 calculations and I figured it out that I have
15 overpaid.

16 JUDGE HAYNES: Okay. Your complaint is only for
17 a specific period of time, though, and we had
18 discussed -- I don't remember the exact dates, but
19 we had discussed which dates those were at the last
20 status hearing.

21 MR. KOLAR: Does anybody know what they are?

22 JUDGE HAYNES: I don't have a copy of the

1 transcript. It's available off our Web page,
2 though. On the complaint, the latest date I see is
3 May, '05.

4 So, the subject of this complaint is
5 limited to those specific dates.

6 MR. KOLAR: Okay. Up until May 27th, 2005?

7 MR. SAHAY: Actually, I have down there June 29,
8 '05.

9 MR. KOLAR: When was this filed? Does anybody
10 know?

11 MR. SAHAY: Yeah, when it was filed, it covered
12 only to May 29, '05.

13 MR. GOLDSTEIN: It was filed June 10th, Counsel.

14 MR. KOLAR: So, I would say -- I mean, I would
15 say the complaint covers a period up until May 28th
16 of 2005 -- or May 27th of 2005, which is referenced
17 in the complaint. So, there should be payments for
18 usage -- there should be payments for services
19 provided by ComEd from May 28th, 2005, forward.

20 Now, you dispute the amount that you
21 paid to that date, but what Counsel says is correct,
22 you should be paying something from May 28th

1 forward. You can't expect to be getting service for
2 nothing during that period.

3 Now, there's a contention over what
4 you should have paid from that period forward --
5 from that period back, but in the meantime, there
6 should be some payments made to ComEd for current
7 usage.

8 MR. SAHAY: Yeah, that is true. But you know on
9 June 7th, the letter that I sent to the Chief Clerk
10 of Illinois Commerce Commission where I had to
11 (inaudible), after my calculations Commonwealth
12 Edison had been overpaid. My calculations are based
13 on two meter, which Commonwealth Edison had
14 installed at my premises to read energy charges as
15 well as demand charges.

16 Since I had overpaid, as part of my
17 calculation, that was the reason I did not pay in
18 May and June, otherwise I would have paid.

19 MR. KOLAR: Okay. I think we can agree now,
20 will you agree that you should pay for what has been
21 received in services from ComEd from May 28th
22 through the present.

1 MR. SAHAY: All right.

2 MR. KOLAR: The question is, what should you
3 pay?

4 Now, Counsel says that your payments
5 were, roughly, \$1500 a month. Looking at your
6 complaint, it shows actual bills in the vicinity of
7 \$800 a month, except from May until June of 2005.

8 MR. PARISE: I'm looking at the actual bills.

9 MR. KOLAR: Okay.

10 MR. PARISE: The last three bills, take a look
11 at the transcript, 1400, based on actual readings
12 from May 27th to June 29th, June 29th to July 28th
13 and July 28th to August 26th, and they're all based
14 on actual readings. I brought the readings here for
15 you, to show you, as we discussed the last time --

16 MR. KOLAR: This is the same thing that
17 (indicating) --

18 MR. PARISE: Except, this is up-to-date, though.
19 I gave you the last regular reads out there.

20 And I think the last time I tried to
21 point out that it's a cumulative demand meter. And
22 when they go out there they push a button to reset

1 it and then we bill in that window from what they
2 found it at to what they left it at. So, once you
3 push the button the meter moves forward, and that's
4 the window they bill you for.

5 If we don't go out there and read the
6 meter and they don't have access to your premises,
7 they can't push that button to read the meter. So,
8 what they do is, they estimate the bill based on
9 other bills that you have out there.

10 And, then, when they finally do get in
11 to read the meter, they push that button. If it
12 took them five months to get out there, it's as if
13 they were only one month, because they're pushing a
14 button and it's found to be reading here
15 (indicating), and left reading here (indicating).
16 So, they don't bill you from that. They have to set
17 the account up so that it will bill forward on its
18 own in the future.

19 MR. SAHAY: You have taken actual meter reading
20 on December 29th, '04, and that time the demand
21 meter read 1604, that was the reading. Now, you are
22 coming and taking actual reading on 6-29, another

1 six months, and then you punch the meter, it says
2 16.38.

3 Now, what you did, you took the meter
4 reading in December and you took the meter reading
5 at the end of June, and you put whole thing to my
6 billing of June. But, January, February, March,
7 April, May, you estimated, you know, and whatever
8 you figure it out, you know (inaudible) --

9 JUDGE HAYNES: You're going to have to repeat
10 that last sentence. I'm sorry, I didn't understand
11 you.

12 MR. SAHAY: They took -- there was some massive
13 construction work was going on inside, you know.
14 And I had indicated the landlord that I cannot
15 afford to pay \$10,000 rent a month, so my space
16 would be divided. So, that division work, you
17 know, some sound proof wall, you know, because it
18 was a game room, you know. You don't want to have
19 the sound of the game to come to other side. So,
20 some really massive construction work had started
21 there.

22 But they had the meter actual reading

1 on 12-29-04, and for that reading it was 16.04, on
2 29, 12-29. Now -- yes?

3 JUDGE HAYNES: I don't know that we want to get
4 into the specifics of your bills today.

5 MR. KOLAR: That's right. That's right. This
6 is not an evidentiary hearing, evidently.

7 MR. PARISE: I'm just trying to point out the
8 three bills that he had there.

9 MR. KOLAR: The issue that I was trying to
10 address was what you should pay from this point --
11 you know, for the months from May 28th, '05,
12 forward. And according to the activity statement
13 produced by -- I'm sorry, what was your name?

14 MR. PARISE: John.

15 MR. KOLAR: By John.

16 MR. GOLDSTEIN: Mr. Parise.

17 JUDGE HAYNES: Mr. Parise.

18 MR. KOLAR: Mr. Parise. It's showing that -- if
19 you could help me here, in each set there are two
20 numbers, it seems, one is smaller, one is larger.
21 Which is which? One is the demand and one is the
22 usage?

1 MR. PARISE: No, no. That's the late charge.

2 This is the bill here (indicating).

3 MR. KOLAR: I guess my question is, why is it
4 that it was in the range of \$800 a month for several
5 months and, then, suddenly it's 1400, \$1500? Can
6 you account for that?

7 MR. PARISE: As I mentioned, there were some
8 times that we could not get into the premises to
9 read the meter, so, we estimated the readings. It
10 could have been too low. I don't know.

11 MR. KOLAR: And it turned out the demand was,
12 actually, much larger?

13 MR. PARISE: The demand now -- this is summer
14 bill, too.

15 Do we really want to talk about it,
16 you know?

17 JUDGE HAYNES: I think that --

18 MR. PARISE: We can get into it.

19 JUDGE HAYNES: -- Mr. Kolar understands that
20 there's an issue with paying the current bills.

21 MR. KOLAR: What I would propose is that we
22 split the difference between 1500 and 800 and that's

1 what he pays per month from May forward.

2 MR. PARISE: These are actual bills based on
3 actual readings. And I've had the meter tested out
4 there.

5 MR. KOLAR: When?

6 MR. PARISE: I think it was May. I'll find out.

7 JUDGE HAYNES: All right. For purposes of this
8 meeting, where I need to be present, Mr. Goldstein
9 raised the point that the company feels that some
10 bills need to be paid and, you know, that point has
11 been raised, and you can work out the details of
12 what will be paid. However, for the actual
13 complaint, which is what is of concern to me, we
14 need to set some dates, and you can work out the
15 specifics of what monies will be paid to keep the
16 power on without my presence.

17 So, do the parties foresee that there
18 will be discovery in this?

19 MR. GOLDSTEIN: Not from us.

20 MR. KOLAR: Some written discovery, I guess,
21 we're going to need. I'm going to have to -- I'm
22 going to request certain records from ComEd.

1 MR. SAHAY: And when we're going to have the
2 discovery, I have a request here (inaudible).

3 JUDGE HAYNES: I didn't understand you. I'm
4 sorry.

5 MR. KOLAR: Speak a bit slower and a bit
6 clearer.

7 MR. SAHAY: When the discovery has to be done,
8 the meter issue that had disturbed me right from the
9 beginning I took over the place. We came in the
10 beginning of 2003. I had a similar operation,
11 operating about the same number of machines I'm
12 operating now. In one place Commonwealth they did
13 have a direct meter, you know --

14 THE REPORTER: I'm sorry.

15 MR. KOLAR: At one time they did have a direct
16 meter.

17 MR. SAHAY: No, you know, my other place.

18 MR. KOLAR: You and I can discuss what discovery
19 you would like from ComEd. We don't have to have it
20 on the record right now.

21 MR. SAHAY: Okay.

22 MR. GOLDSTEIN: Please provide that discovery in

1 written form, so that we can respond to it.

2 MR. SAHAY: I definitely like to have in my
3 discovery the second direct meter to be installed
4 there. Then, we can verify that this meter is
5 giving high reading or low reading or correct
6 reading, because \$120 factor reading is too much.

7 MR. KOLAR: Okay. We can get into it
8 afterwards.

9 JUDGE HAYNES: This is, obviously, something
10 that can explored in discovery, and you can talk
11 with your attorney with what discovery you would
12 like to do.

13 However, how long would you like to
14 have to serve that discovery on the company?

15 MR. KOLAR: Three weeks.

16 JUDGE HAYNES: Okay. So, we will say that the
17 complainant will serve his discovery requests on the
18 company by September 20th. And the company for
19 responding?

20 MR. GOLDSTEIN: We would like three weeks to
21 respond, since we do not know the extent of the
22 discovery. It could be minimal. It could be

1 substantial.

2 JUDGE HAYNES: We'll set it for October 11th.

3 And if either party has issues with discovery, call
4 me, and we can set a status.

5 Yes?

6 MR. KOLAR: I'm sorry, what is your name, again?

7 JUDGE HAYNES: Leslie Haynes.

8 MR. KOLAR: And you are a hearing officer for
9 the ICC?

10 JUDGE HAYNES: Correct. Administrative Law
11 Judge.

12 MR. KOLAR: Oh, Administrative Law Judge.

13 JUDGE HAYNES: Would the parties like to have
14 another status before we schedule the evidentiary,
15 or go straight to evidentiary?

16 MR. GOLDSTEIN: What is the October 11th date,
17 Judge?

18 JUDGE HAYNES: Your date to respond.

19 MR. PARISE: To respond to discovery.

20 MR. GOLDSTEIN: Oh, I'm sorry.

21 MR. KOLAR: I think the petitioner would like a
22 status date after the close of written discovery.

1 JUDGE HAYNES: End of October?

2 MR. SAHAY: In the meantime, Judge, one thing I

3 want to say --

4 MR. KOLAR: Hold on a second.

5 Date?

6 JUDGE HAYNES: I'm quite free the week of

7 October 24th.

8 MR. PARISE: Monday?

9 JUDGE HAYNES: Any day that week.

10 MR. KOLAR: That's fine.

11 JUDGE HAYNES: Your client has expressed a

12 preference for meetings after -- in the afternoon,

13 so, 1:00 o'clock, October 24th?

14 MR. KOLAR: That's fine.

15 JUDGE HAYNES: Okay. Anything else?

16 MR. SAHAY: Yes. The last time when I was here

17 I had talked with John about the meter they have

18 over there, you know. And he said that if I want to

19 replace that meter, the direct meter, which I

20 requesting all along after 2004, he said that I had

21 to pay for the meter.

22 Do I have to pay for the meter if I

1 request Commonwealth to change that meter and give
2 me a direct meter?

3 JUDGE HAYNES: I do not know.

4 MR. KOLAR: How much would a meter be?

5 MR. PARISE: Ballpark, you send somebody out
6 there, the cost of exchanging demand meter is about
7 \$100. And if it's like for like meter, probably,
8 around -- depends on the kind of meter, there's no
9 charge for the meter itself. There's just a rental
10 charge. I'm not sure what that might be.

11 I would suggest that we do nothing
12 with that meter until after this is finished, you
13 know, for fear that, you know, if anybody might
14 accuse someone of tampering with it. I'd suggest
15 that we leave it out there until we're finished and
16 after this case is heard --

17 MR. SAHAY: But, John, if the meter is changed,
18 let us say in a week or two, and we are meeting in
19 October, by that time we will have the reading from
20 the new meter and that will give a big light on this
21 issue.

22 MR. GOLDSTEIN: You've not accepted the fact

1 that what Mr. Parise provided you over the last
2 three months were actual meter readings. And he,
3 also, told you that the meter has been tested and
4 was found to be testing accurately.

5 So, given that combination, I would
6 prefer --

7 JUDGE HAYNES: Has the test ever --

8 MR. SAHAY: How was it tested? Who tested?

9 JUDGE HAYNES: Has the results of the test and
10 all that paperwork been provided to the client?

11 MR. GOLDSTEIN: No, there's been no request.

12 MR. KOLAR: That's something we can request in
13 our discovery.

14 MR. SAHAY: I could not understand. Do not have
15 any access to the meter from December to June 29.

16 When did they come to test? How they test it?

17 MR. PARISE: I'll find out. If you'd like, I'll
18 provide you with a copy of that test.

19 MR. SAHAY: But when they do the testing, I want
20 to be there.

21 MR. GOLDSTEIN: You'll have that information
22 when you get a copy of the test.

1 MR. SAHAY: If I know when they are coming to
2 test the meter, I will be there.

3 MR. KOLAR: We'll request a copy of any
4 documents they have relating to the test they did in
5 May. We'll be thorough in our discovery request.

6 JUDGE HAYNES: Okay. Anything else?

7 MR. PARISE: I have one comment. He mentioned
8 he would like to have another test with his being
9 present. You can set something up like that. But,
10 you're only allowed one test a year for free. You
11 would have to pay for a second one.

12 MR. KOLAR: How much would that be?

13 MR. PARISE: I'm not sure. It's not much.

14 MR. KOLAR: So, you're saying a replacement
15 meter would be about \$100?

16 MR. PARISE: Right. Just to go out there and
17 exchange it for -- I would have to look -- an
18 engineer would really have to take a look at that
19 and see what kind of load is out there now. When we
20 set up a meter in the beginning, based on the size
21 and type of meter, the load at the facility. The
22 loads change now, and it's not required, we can

1 probably do something to accommodate his request.

2 I caution the group that until this is
3 heard and taken, I would hate to take that meter out
4 of there. You know, I don't want anyone to say that
5 you took it out and tampered with it in any way.

6 Do you understand what I'm saying?

7 MR. GOLDSTEIN: So, we'd have to have some kind
8 of agreement with the parties --

9 MR. SAHAY: You know, if there's another meter
10 and I see the meter reading, and then no question of
11 any tampering.

12 MR. GOLDSTEIN: May I, also, suggest that when
13 we set this matter for actual evidentiary hearing,
14 if it goes that far, that both the complainant and
15 the respondent provide written testimony. I'm
16 having some difficulty understanding Mr. Sahay
17 myself. And I want to have it clear on the record
18 what the position of the parties are with respect to
19 the matters set forth in the complaint.

20 JUDGE HAYNES: And it's something that we do at
21 the Commission here. I'll give you an opportunity
22 to think about that. But that is very normal

1 practice here at the Commission to have prefiled
2 testimony, and then at the actual hearing it's just
3 cross-examination on the written testimony that was
4 previously filed and written out.

5 MR. KOLAR: That's fine. We can agree to that
6 now.

7 JUDGE HAYNES: Okay.

8 So, this is continued till
9 October 24th at 1:00 p.m., and if any issues arise,
10 feel free to call me, file a motion, and I will see
11 you then.

12 Thank you.

13 (Whereupon, the proceedings
14 in the above-entitled matter
15 was continued to 10-24-05.)
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